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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 90/2020**

SHILPI KWATRA

..... Plaintiff

Through: Mr. S.K. Bansal, Mr. Ajay Amitabh Suman, Mr. Rakesh Mittal, Mr. Pankaj Kumar, Mr. Somnath De and Mr. Dharendra Singh, Advs.

Versus

ANUBHAV SINHA & ORS.

..... Defendants

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. Harshvardhan Jha and Mr. Kivramaditya Chavan, Advs. for D-1 to 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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25.02.2020

IA No.2672/2020 (u/S 149 CPC)

1. Accepting the undertaking of the counsel for the plaintiff that the court fees will be deposited within three days, the time for depositing the court fees is extended by three days.
2. At this stage, the counsel for the plaintiff states that court fees has already been received and will be deposited in the course of the day.
3. The Registry to report, whether the court fees is sufficient.
4. The application is disposed of.
5. If the court fees is not deposited or the court fees deposited is not sufficient, the Registry to re-list the suit for appropriate action.

IA No.2671/2020 (for exemption)

6. Allowed, subject to just exceptions.
7. The application is disposed of.

IA No.2670/2020 (u/O XI R-1(4) CPC)

8. For the reasons stated, the plaintiff is permitted to file the additional documents latest with the replication, if any.

9. The application is disposed of.

CS(COMM) 90/2020 & IA No.2669/2020 (u/O XXXIX R-1&2 CPC)

10. The plaintiff, claiming to be granddaughter and heir of the Punjabi and Hindi poet Dr. Amrita Pritam, has instituted this suit against defendants No.1 to 3 namely (i) Anubhav Sinha, (ii) Bhushan Kumar and (iii) Super Cassette Industries Pvt. Ltd., for (a) permanent injunction to restrain the defendants from releasing the film “THAPPAD”, scheduled for release on Friday i.e. 28th February, 2020, on the ground that the same contains the poem ‘MERA PATA’ of late Dr. Amrita Pritam and copyright wherein vests with the plaintiff; (b) permanent injunction to restrain the defendants from promoting, advertising, pursuing or releasing the film “THAPPAD” by projecting the same to be in any manner associated with or related to life of late Dr. Amrita Pritam; and, (c) ancillary reliefs.

11. The plaint is highly disjointed and does not contain all the requisite details. Though the plaintiff at page 151 of Part-III(A) file has filed legal notice dated 16th September, 2019 got issued by Aman Kwatra, brother of the plaintiff in his capacity as Trustee-cum-Chairman of Dr. Amrita Pritam Foundation Trust, on the same subject, claiming to be holding exclusive copyright in the works of Dr. Amrita Pritam and claiming that the said copyright is impartible, in the plaint there is no explanation how in the face of the claim of the said Aman Kwatra in the legal notice aforesaid in his capacity as Trustee claiming the copyright to be solely held by him / by the

Foundation and being impartible, the plaintiff claims any right. Even though the said Aman Kwatra may be the brother of the plaintiff, the fact remains that the said Aman Kwatra in his capacity as Trustee of Dr. Amrita Pritam Foundation Trust claimed that the rights vested solely and impartibly in him / Foundation.

12. Moreover, the plaintiff has also filed the reply dated 19th October, 2019 received to the legal notice wherein the defendants have denied having claimed/projected the forthcoming film to be based on the life or works of Dr. Amrita Pritam. There is no explanation, how in the face of such reply, the plaintiff has any cause of action. Statements of others, who have not been sued, to the said effect, though can constitute cause of action against them, but not against the defendants.

13. An associate of the counsel for the plaintiff, while mentioning the matter yesterday for urgent listing, to explain the urgency, stated that the divorce proceedings of Dr. Amrita Pritam were on the ground of her husband having slapped her and the plot of the subject film is therefore based on the life of Dr. Amrita Pritam. However there is no whisper even in the plaint, in this respect. It is obvious that a false impression was given at the time of mentioning the matter for urgent listing.

14. Be that as it may, the senior counsel for the defendants appears as per intimation directed to be given at the time of mentioning and on enquiry, under instructions, confirms that what is stated in the reply sent to the notice preceding the suit is correct and that neither have the defendants claimed anywhere that the film is based on the life or works of Dr. Amrita Pritam nor does the film contain the poem 'MERA PATA' of Dr. Amrita Pritam.

15. The senior counsel for the defendants also informs that though at one point of time there was a proposal for including the said poem in the film and in another scene of the film, a reference to Dr. Amrita Pritam was made and permission therefor sought to be obtained but on unreasonable demands being made, the same were dropped and the film as due to be released would not have any reference to Dr. Amrita Pritam and will not contain the poem 'MERA PATA' or any part thereof.

16. In fact seeing the reply to the legal notice, I had at the outset enquired from the counsel for the plaintiff, whether the plaintiff wanted to give the undertaking for depositing the court fees, being of the view that in light of the categorical stand of the defendants, there was no cause of action for the suit. However the counsel for plaintiff insists.

17. The counsel for the plaintiff also states that in view of the statement aforesaid of the senior counsel for the defendants, the suit may be disposed of.

18. The senior counsel for the defendants points out that the plaint is not in accordance with Order VI Rule 14 of the Code of Civil Procedure, 1908 and there is no reason why the plaintiff has not herself verified the plaint or filed affidavit or statement of truth with respect thereto and the verification, statement of truth and affidavit of the wife of the Advocate is not sufficient compliance.

19. Though all the aforesaid conduct of the plaintiff entitles the defendants to costs but as a mark of deference to the late poet, I am refraining from doing so and dispose of the suit, binding the defendants to their statement aforesaid and leaving the parties to bear their own costs.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 25, 2020/‘bs’..
CS(COMM) 90/2020